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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,372	12/22/2003	Asko Vetelainen	KOLS.081PA	9337
7590 Hollingsworth & Funk, LLC Suite 125 8009 34th Avenue South Minneapolis, MN 55425				
EXAMINER				
JONES, SCOTT E				
ART UNIT		PAPER NUMBER		
3714				
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05/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/743,372

**Applicant(s)**

VETELAINEN, ASKO

**Examiner**

Scott E. Jones

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to the reply filed on February 29, 2008 in which applicant submits a Request for Continued Examination, amends claims 1, 15, 19, and 23, and responds to the claim rejections.. Claims 1-28 are pending.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 29, 2008 has been entered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Perlman (U.S. 5,558,339).

The rejection as stated in Office Action, Paper No. 06012007 is retained and incorporated herein.

Perlman discloses an apparatus and method for linking multiple remote players of real-time games over a traditional telephone line. Perlman accomplishes this goal by having

prospective players dial into a server which determines, based on a telephone number and information provided by a player, which players to connect to each other to play the game. Once this match is determined, both players are disconnected from the server, and one of the player's computers automatically dials the other player's phone number and establishes a direct connection via a traditional telephone line to play the game.

Perlman describes a player's phone number as an "address" or "network address" in a data network. However, due to privacy concerns, a player's phone number is not "explicitly" shown to the opposing player. Rather, a screen name or handle, an identification code is sent and displayed by both computers. (Figures 3, 4, and 8, Column 10, lines 18-35, and Column 11, lines 20-49). Furthermore, players are able to communicate with each other during the game (Column 41, line 65-Column 42, line 56).

User A computer (65) specifies to server (121) the desire to play a twitch game. Similarly, User B computer (66) performs the same function as User A (C11:11-20). Server (88) sends a message to User A computer (65) and User B computer (66) that they will be matched up in a game. Relevant information is transmitted to each User A computer (65) and User B computer (66), Such as the user's handle or screen name, statistics about the user's prior performance, and an identification code is sent to both User A computer (65) and User B computer (66) (C11:40-49). Either User A computer (65) or User B computer (66) may direct the call to each other. Thus, either User A computer (65) or User B computer (66) directly connects via a call to the other computer. Accordingly, the other user's telephone number is stored internally in the computer, although the number is not displayed or made readily accessible to the other player (C12:9-17).

Moreover, although Perlman incorporates privacy considerations into the design of the system, phone number of User B is transferred to the computer of User A. (C13:29-30). And, it is possible for User A to attach a touch tone decoder device to the phone line while User B's number is being dialed or use other software tools to maliciously capture User B's phone number (C13:29-39). Nevertheless, whether the phone number is shown to the users or not is immaterial since the phone numbers are transferred to the User computers.

Furthermore, regarding claims 7 and 25, Perlman discloses reporting connecting problems, heuristics regarding the connection history of the computers, and previous reports of players hanging up when they are losing (C15:27-34 and C16:15-31).

Regarding claims 6 and 8, predetermined time limits for receiving responses is at least disclosed at C14:51-C15:6; regarding claim 10, blocking gaming requests is disclosed at least in the call forwarding feature described at C29:39-C30:59; and regarding claims 11-13, the communication unit comprising a terminal of a cellular radio system, infrared transceiver, or a short-range radio transceiver is clearly disclosed at C29:14-31.

#### ***Response to Arguments***

5. Applicant's arguments filed February 29, 2008 have been fully considered but they are not persuasive with regards to the rejection to claims 1-28 under 35 U.S.C. 102(b) as being anticipated by Perlman (U.S. 5,558,339).
6. Applicant alleges the rejection to claims 1-28 under 35 U.S.C. 102(b) as being anticipated by Perlman (U.S. 5,558,339) is improper.

Applicant alleges Perlman does not teach or suggest each of the claim limitations. In particular, Applicant alleges Perlman does not teach or suggest an electronic gaming device that

stores contact information of at least one user of another gaming device, receives a response to a gaming request sent by the device, and starts a game in multiplayer mode in response to that response being positive. However, Perlman clearly discloses these limitations as discussed above in the rejection.

Applicant argues Perlman teaches a system where gaming devices rely upon a third party server to review contact information and link the remote devices. Although Applicant's statement is partly correct, Perlman still anticipates the claims. Moreover, this position amounts to a spurious argument since Perlman anticipates the claims.

Applicant further alleges Perlman teaches away from the gaming devices storing contact information for reasons related to privacy. First, a teaching away argument is not applicable to a rejection applied under 102(b); only a rejection applied under 103. Second, although Perlman incorporates privacy considerations into the design of the system, phone number of User B is transferred to the computer of User A. (C13:29-30). And, it is possible for User A to attach a touch tone decoder device to the phone line while User B's number is being dialed or use other software tools to maliciously capture User B's phone number (C13:29-39). Additionally, the other user's telephone number is stored internally in the computer, although the number is not displayed or made readily accessible to the other player (C12:9-17). Nevertheless, whether the phone number is shown to the users or not is immaterial since the phone numbers are transferred to the User computers.

Finally, Applicant alleges the Office Action has not identified where Perlman teaches use of an event log stored in the device as claimed in claims 7 and 25. The Examiner respectfully

disagrees and directs Applicant's attention to the rejection stated above regarding claims 7 and 25.

7. For the reasons discussed above, the Office maintains the rejection.

***Conclusion***

8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott E. Jones/  
Primary Examiner, Art Unit 3714

SEJ